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Thesis

THE INFLUENCE OF THE SACCO-VANZETTI CASE ON TWENTIETH CENTURY AMERICAN LITERATURE

by
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(A.B., Boston University, 1947)
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Preface

The case of Sacco and Vanzetti had been before the courts of Massachusetts - the courts of a state which ordinarily dispatches murder trials promptly - for a period of seven years. This, alone, challenges attention. But more than that fact alone, a long succession of further disclosures on the case had increased interest and excitement far beyond the boundaries of Massachusetts, and even beyond the United States, until the Sacco-Vanzetti Case had become a case of international concern, a cause célèbre that "rocked the world."

In Boston, two days before the execution, crowds of people were gathered before the State House in a parade of pickets - Edna St. Vincent Millay, Lola Ridge, John Dos Passos included - in their last cry: "Save Sacco and Vanzetti. Is Justice dead?" Police arrested more than one hundred and fifty demonstrators that night. The tension, fear, hostility, suspicion as expressed by bomb explosions in New York and Baltimore echoed to the people that Massachusetts justice was on trial. In Paris, twenty people were killed by a bomb in a Sacco-Vanzetti demonstration; in Rome, riotous crowds menaced the American Embassy; at Lisbon, the home of the Consul-General was threatened with bombing; at Montevideo, there was an attempt to boycott American goods. World writers, H.G. Wells, Anatole France, Romain Rolland, George Bernard Shaw sent pleas to Governor Fuller who dismissed each one as an "unwarranted

interference" - all these and more protests at what was thought to be an obvious deviation from justice.

The guilt or innocence of Sacco and Vanzetti even today is a matter of intense belief to millions of people, most of whom have never examined the record of the case. This paper is not concerned primarily with the innocence or guilt of Sacco and Vanzetti; it is concerned with the writings which poured forth in angry protest against the final verdict and the execution of the two men. Before any discussion of these writings, however, it is necessary to recount some aspects of the case in order that further references to it may be clear.

The Sacco-Vanzetti issue came at a time when American institutions were severely and justly attacked; and in all these writings to be considered, the consciences of the artists cannot be reproached. But again, the purpose of this paper is not to admire their consciences but to evaluate the works of their consciences, their writings, as art. These writings influenced by the case of Sacco and Vanzetti are far too numerous to be encompassed in this paper. The most vital of these in drama, verse, novel have been selected.

The case of Sacco and Vanzetti; the literature resulting from it; the writers; the differences in their approaches, convictions, treatments of the same subject; the value of that subject as a theme in a work of art - these, then, are the considerations open for discussion in this paper.

I. SOME ASPECTS OF THE CASE OF SACCO AND VANZETTI[1]

The Crime

In South Braintree, Massachusetts, on the afternoon of April 15, 1920, a paymaster, Frederick Parmenter, and his guard, Alexander Berardelli, while transporting two boxes containing the sum of $15,776.51 from the main office of the Slater and Morrill shoe factory, were murdered by two armed men who escaped with the money in a waiting car. Two days later this car was found in the woods, and the tracks of a smaller car led away from the spot.

How Sacco and Vanzetti became involved

At this same time, the police were investigating an unsuccessful hold-up which had taken place in Bridgewater. This crime was similar to the south Braintree crime: there was a car, there was a gang. In each, eyewitnesses believed the contributors to be Italian. The car of the Bridgewater hold-up, it was known, left in the direction of Cochesett so that, at the time of the South Braintree murders, Chief Stewart of Bridgewater was already looking for an Italian who owned or drove a car in Cochesett. He found an Italian named Boda, whose car was being repaired at Johnson's Garage. Stewart, maintaining

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1. The following facts on the Sacco-Vanzetti Case may be found in any complete account. Except where otherwise indicated, this account is based on: Frankfurter, Felix, The Case of Sacco and Vanzetti, Little, Brown, and Company, Boston, 1927.

his theory centered on Boda, decided that whoever called for Boda's car would be suspect of the South Braintree crime.

On the night of May 5, Boda called for his car with three other Italians, Sacco, Vanzetti, and Orciani. They were advised by Mr. Johnson, the garage owner, not to run the car without the current year's number plate. They left, while Mrs. Johnson was calling the police as planned. That same night Sacco and Vanzetti were arrested on a street car as it was coming into Brockton. Orciani was arrested the next day, and Boda was never heard of again.

What were Sacco and Vanzetti doing with Boda? An explanation involves the wholesale deportation of Reds under Attorney-General A. Mitchell Palmer in the spring of 1920. Two months before the night of May 5, the night of Sacco and Vanzetti's arrest, an anarchist, Salsedo, was seized on a deportation warrant and was illegally confined incommunicado on the fourteenth floor of the Park Row Building in New York. Salsedo's fellow prisoner, Robert Elia, reported that Salsedo had been tortured by agents of the Department of Justice in order to get a confession of his radical activities. On May 3, Salsedo's body was found on the pavement below the Park Row Building, murder or suicide unknown.

Vanzetti, interested in the Salsedo case, had been active in the movement for Salsedo's release, and in late April, had gone to New York to see Salsedo's counsel. He was warned that more government raids were expected, and was advised to

notify his friends against the federal police and to hide all the literature they had. It was for this mission, as well as for the organization of a movement of protest against Salsedo's death, that Sacco and Vanzetti turned to Boda for a car on the night of May 5.

After their arrest, Sacco and Vanzetti were grilled by officials, not a word said about the South Braintree and the Bridgewater crimes, but only on their radical beliefs and affiliations, as instigated by Palmer's "Red Raids." To Sacco and Vanzetti, it looked like another deportation case, and accordingly, in their desire to protect themselves and their friends, they returned misleading answers to the questions put to them. This very natural desire was later used against them as betokening "consciousness of guilt."

Chief Stewart insisted that the two crimes, in South Braintree and in Bridgewater, were carried out by this one gang, Orciani, Sacco, and Vanzetti. But it was impossible to apply this theory. Orciani, who was at work on both days of the crimes, was let go. Sacco, employed at a shoe factory in Stoughton, had taken a day off on April 15, and while he could not be charged with the Bridgewater crime, he was charged with the South Braintree murders. Vanzetti, a self-employed fish peddler, unable to give the same kind of alibi, was charged with both crimes.

Vanzetti was indicted, tried, and convicted for the attempted Bridgewater hold-up before Superior Court Justice

Webster Thayer, and on June 22, 1920 he was sentenced from twelve to fifteen years in prison. Vanzetti's conviction on this lesser charge served as a build-up against both men when they were both tried together for the South Braintree murders. This trial began on the following May 31, 1921, at the Dedham courthouse, also before Judge Thayer, and it lasted for almost seven weeks. On July 14, 1921 Sacco and Vanzetti were found guilty of murder in the first degree. Because of the new accumulating evidence after the trial, the execution of Sacco and Vanzetti was put off until August 22, 1927.

The Case against Sacco and Vanzetti

The trial of Sacco and Vanzetti for the South Braintree murders brought forth a mass of conflicting evidence. There were fifty-nine witnesses who testified for the Commonwealth, and not all the evidence offered by them was the same, and there were ninety-nine witnesses for the defendants. The witnesses for the Commonwealth testified to having seen both Sacco and Vanzetti in South Braintree on the morning of April 15; they identified Vanzetti as the man in the murder car; they recognized Sacco as the man who shot the guard Berardelli; expert testimony sought to connect one of the four bullets from Berardelli's body with the Colt pistol found on Sacco at the time of his arrest.

The defense met each of the Commonwealth's eyewitnesses by other eyewitnesses who were just as close to observe the assailants. They swore that Sacco and Vanzetti were not the men

they saw. Their testimony was confirmed by other witnesses who substantiated the alibis of Sacco and Vanzetti. Sacco's testimony, that on April 15, the day he did not go to work, he was in Boston to see about a passport to Italy, where he was planning to return to see his father, was supported by the Italian consulate who testified that Sacco had visited him at 2:15P.M. (the crime took place at 3:00 P.M.). That being true, Sacco could not have taken part in the South Braintree murders. Vanzetti's claim that on April 15 he was peddling fish in Plymouth was supported by thirteen witnesses who were his customers that day. Thirty-one eyewitnesses claimed that Vanzetti positively was not the man they saw in the murder car.

None of the testimony of the eyewitnesses who identified Sacco and Vanzetti was convincing. For example, the observations of W.S. Tracy, who claimed he saw both Sacco and Vanzetti waiting for a street car on the day of the crime may have been honest on his part, insofar as their descriptions will fit the many foreigners to be seen every day on the streets, but he failed to present even one characteristic feature of either man to make his testimony more valid. The following is a more detailed account of the testimony presented by the Commonwealth against Sacco and Vanzetti.

<u>The testimony against Sacco</u>:

Mary E. Splaine and Frances Devlin, both working together on the second floor of the Slater and Morrill shoe factory, heard the shot and from the window saw an automobil

crossing the tracks. Splaine, viewing the car from a distance of from sixty to eighty feet, identified Sacco, a man previously unknown to her, as one of the occupants of a car travelling at the rate of from fifteen to eighteen miles per hour. From one and a half to three seconds, she saw him at a distance of thirty feet; and yet her testimony, one of the chief reliances of the prosecution, was that she was "positive" that Sacco was the man she saw and "certain I am not making a mistake."[1] This certainty came a year after she saw Sacco. It is significant to note that forty days after she saw him she testified in a lower court, "I don't think my opportunity afforded me the right to say he is the man."[2] According to Dr. Morton Prince, Professor of abnormal and dynamic psychology, the fact that Sacco had been shown to Splaine on several occasions alone, and not among many men, allowed her to develop Sacco's image in her mind and to create a false memory, produced by the suggestion of Sacco. Under such circumstances, with all the opportunities she had to study Sacco, at the police court, at the trial where he sat before her, it is understandable that Splaine testified honestly enough as far as she knew. Had Splaine been asked to pick out Sacco among a group of men, this falsification of memory would have been avoided.[3] It has been disclosed since the trial, that Splaine identified another man, not Sacco, as the person she saw in the car, but since that

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1. Frankfurter, op.cit., p.13.
2. Ibid., p.12.
3. Ibid., p.14.

man had been in jail on the day of the crime, she later identified Sacco as the man she saw. With such obvious discrepancies in her testimony, Splaine was still considered the star witness for the prosecution.

Frances Devlin, who was with Splaine at the window of the factory, testified, a month after the crime, that Sacco looked "very much like the man that stood up in the back seat shooting"[1] but she couldn't say positively. Yet she too, over a year later, had no doubt that Sacco was the man, and explained that "at the time there I had in my own mind that he was the man, but on account of the immensity of the crime and everything, I hated to say right out and out."[2]

The impossibility of making an accurate identification after a quick glimpse of a man in a moving car, a man not previously known to the observer, was brought forth in the testimony of Ferguson and Pierce. Both had the same view from another window of the Slater and Morrill factory as Splaine and Devlin; and both found it impossible to make any such accurate and positive identification.

Another witness for the Commonwealth, Pelzer, a shoecutter, swore that when he heard the shooting he went to his window and saw the man, whom he identified as Sacco. Three workmen who were with Pelzer testified that he did not look out the window at all. Two of them said that he took refuge under

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1. Frankfurter, op.cit., p.15.
2. Ibid., p.15.

a bench, and the other claimed he heard Pelzer say, after the shooting, that he did not see anything. Pelzer was unable to make any identification in May 1920, but in June 1921 he identified Sacco as the "dead image"[1] of the man he saw.

Of all the witnesses, Lola Andrews had the best opportunity to see the man with whom she spoke. Yet her testimony was very weak. On the day of the murders, about 11:00 A.M., she and a Mrs. Campbell were in search of employment at the Slater and Morrill Shoe Factory. Before entering the factory, she noticed an automobile outside and a "dark-complexioned man bending over the hood of the car"[2] Fifteen minutes later, as she came out, the man was "down under the car like he was fixing something."[3] She asked the man the way to another factory, and he told her. Mrs. Andrews testified that when she heard of the shooting "I somehow associated the man I saw at the car."[4] She identified this man to be Sacco.

Four witnesses discredited Mrs. Andrew's testimony. Mrs. Campbell, who was with her, claimed that Mrs. Andrews never did talk to the man under the automobile, but to another man standing near, Another witness, Harry Kurlansky, testified that Mrs. Andrews passed by his door one night and stopped to say, "The Government took me down and want me to recognize those men, and I don't know a thing about them. Unfortunately

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1. Frankfurter, op.cit., p.17.
2. Ibid., p.18.
3. Ibid., p.18.
4. Ibid., p.19.

I have been down there to get a job and I have seen many men that I don't know and I have never paid any attention to anyone."[1] A Quincy policeman and a Quincy newspaperman both testified that when Mrs. Andrews, who had complained of an assault in her apartment, was asked if she thought he was one of the men she saw at South Braintree, she said she "did not see the faces of the Braintree men . . . and could not tell."[2] Yet District Attorney Katzmann presented Lola Andrews's testimony with his own personal sponsorship -

> And then there is Lola Andrews. I have been in this office, gentlemen, for now more than eleven years. I cannot recall in that too long service for the Commonwealth that ever before I have laid eye or given ear to so convincing a witness as Lola Andrews.[3]

Another witness, Carlos E. Goodridge (who, it was discovered after the trial was over, had been fugitive in another state and had used a false name) testified that at the time of the murders he was in a poolroom in South Braintree. He heard the shots, went to the door, and a man in a car "poked a gun"[4] towards him, whereupon he went back in the poolroom. Seven months later, for the first time, he identified Sacco as the man he saw. Goodridge's employer, Manganaro, contradicted Goodridge's claim when he testified that Goodridge told him "he could not do it (identify the murderers) because when he saw the gun he was so scared he run right in from where

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1. Frankfurter, op.cit., p.20.
2. Ibid., p.22.
3. Ibid., p.22.
4. Ibid., p.25.

he was. He could not possibly remember the faces."[1] Magazu, the man who ran the poolroom in combination with a shoe store, testified that Goodridge told him that the man who pointed the gun at him was a "young man with light hair, light complexion and wore an army shirt . . . this job wasn't pulled by any foreign people."[2] Of all the identification testimony, and especially that of Goodridge's, Felix Frankfurter wrote - an opinion ventured on the authority of three members of the Harvard Law School -

> Even when completely disinterested, identification testimony runs all the grave hazards due to the frailties and fallibilities of human observation and memory. But Goodridge's testimony was, in addition to everything else, tainted with self-interest. At the time he was a witness for the Commonwealth, he was facing jail under an indictment for larceny to which he had pleaded guilty. The case "had been filed," - that is, no sentence had been imposed, - and Goodridge had been placed on probation. The Judge did not allow the defense to show that Goodridge's testimony on behalf of the Commonwealth was influenced by leniency previously shown to him by the District Attorney in connection with the confessed charge of larceny, and by fear of losing his immunity. In the light of settled principles of the law of evidence this ruling, though later sustained by the Supreme Judicial Court of Massachusetts, is indefensible.[3]

Other testimony against Sacco was a cap, worn by one of the bandits, and was found near the body of Berardelli. This cap was one of common design and color and of the same general

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1. Frankfurter, op.cit., p.23.
2. Ibid., p.24.
3. Ibid., p.24.

appearance of Sacco's cap, except for the earflaps. The cap fit on Sacco's head, but both he and Mrs. Sacco denied ownership, especially because he never wore a cap with earflaps. The prosecution insisted that the cap belonged to Sacco, and that the holes in the lining were caused by a nail in the shop where he worked. Judge Thayer cited the rent as vital proof that Sacco was present at the time of the shooting. But later evidence, after the trial, by the Braintree chief of police before the Lowell Committee, revealed that he himself had made the holes in the lining of the cap in an effort to find a name on the inside.

The Colt pistol found on Sacco at the time of his arrest was the strongest evidence against him. It was testified by experts that one of the bullets found in the dead bodies was fired from Sacco's pistol. This testimony was contradicted by other experts. The other five bullets, it was admitted by all experts, were not fired by either Sacco or Vanzetti. When the verdict was left to the jury, Judge Thayer emphasized the testimony of two of the State's experts, Proctor and Van Amburgh, who testified that it was Sacco's Pistol that fired the bullet found in Berardelli's body.

<u>The testimony against Vanzetti:</u>

One witness, Faulkner, identified Vanzetti as the man he saw on a train from Cochesett to Boston, and he claimed that Vanzetti go off at East Braintree at 9:54. Three other witnesses, all railroad men, completely destroyed his testi

Reed, another witness, claimed he saw Vanzetti sitting on the front seat of a car, which he identified as the murder car, more than an hour after the murder. Reed further testified that Vanzetti's English was "unmistakable and clear"[1] when actually it was so imperfect that an interpreter had to be at the trial.

One of the main witnesses, Harry E. Dolbeare, identified Vanzetti as one of five men in a car he saw in South Braintree between 10:00 - 12:00 A.M. A quick glance at the profile of one of these occupants in the back seat was the basis of this positive identification. Dolbeare claimed that "this one man attracted my attention."[2]

LeVangie, who was the gate tender of the New Haven Railroad and on duty at the South Braintree grade crossing on the day of the murder, testified that, as he was lowering the gate, the murder car drove up and, at the point of a gun, he was forced to raise the gates and let the car through before the advancing train. According to LeVangie, the man driving the car was Vanzetti. This contradicts the testimony of all the other state witnesses who placed Vanzetti in the back seat of the car. A locomotive fireman, McCarthy, testified that three-quarters of an hour after the murder, in a conversation with LeVangie, he (LeVangie) told him he did not know the men in the

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1. Frankfurter, op.cit., p.26.
2. Ibid., p.27.

car, nor would he know them if he saw them again - all he could see was the gun pointing at him, so he left the gates alone and ducked in the shanty. At the time that District Attorney Katzmann had offered the testimony of LeVangie, he held in his possession written statements of two people, Kelly and Kennedy, the only two who actually had opportunity to see the driver of the car, and in their affidavits the description of the driver absolutely excluded Vanzetti. These witnesses were never called by Katzmann; and the defense did not know of them until it was too late.

The other evidence against Vanzetti centered around the pistol found on him at the time of his arrest. The gun of the murdered guard, Berardelli, was traced by the prosecution to the possession of Vanzetti, even though none of the witnesses could testify that Berardelli had drawn a gun, or that Vanzetti had taken it from him. In fact, there was no testimony to whether Berardelli was armed at the time of the murder. The only evidence offered was that Vanzetti's revolver was of the same general description as that of Berardelli's, but there was no detailed description as to the size of the bore.

How important is the evidence thus far? The evidence on Sacco's cap alone, even though the reason for the holes in the lining was never revealed during the trial, was not sufficient to convict him. The misinterpretation of the evidence on both the pistols found on Sacco and Vanzetti could

have been strong enough, especially in the case of Sacco, to convict the men, because the jury had no opportunity to reconsider the testimony after Judge Thayer's denials of the subsequent motions for a new trial. The testimony of the eye-witnesses called in by the prosecution, the testimony was not always the same; the basis of these was from mere casual observations of men, not known to them before, of foreign race, under confusing circumstances. (The one person, Mr. Gould, who had the best opportunity of all the witnesses to get a full view of the murderers, was never given a chance to testify.) In the process of identification by witnesses, the methods of the police were fatal in the validity of each identity, since Sacco and Vanzetti were not part of a parade of men, but were shown singly; and probably, since the resemblance of them to any other foreigner seen in a split second was generally similar, the positive identifications were understandable and possibly expected. Even Judge Thayer, in consideration of these eyewitnesses, ruled, on the strength of Gould's subsequent affidavit stating that Sacco and Vanzetti were not the men he saw, that the verdict could not, and did not rest on any of their evidence, but that "the evidence that convicted the defendants was circumstantial and was evidence that is known in law as 'consciousness of guilt.' "[1]

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1. Frankfurter, op.cit., p.33.

This "consciousness of guilt" as emphasized by Judge Thayer became an important part of the prosecution; yet the explanation given to why Sacco and Vanzetti acted as they did after their arrest is easily understandable. Judge Thayer meant, by "consciousness of guilt," that the defendants' conduct after their arrest was the conduct of murderers.

> . . It is vital to keep in mind the exact data on which, according to Judge Thayer, these two men are to be sentenced to death. There was no claim whatever at the trial, and none has ever been suggested since, that Sacco and Vanzetti had any prior experience in hold-ups or any previous association with bandits; no claim that the sixteen thousand dollars taken from the victims ever found its way into their pockets; no claim that their financial condition, or that of Sacco's family (he had a wife and child, and another child was soon to be born), was in any way changed after April 15; no claim that after the murder either Sacco or Vanzetti changed his manner of living or employment. . . Neither of these men had ever been accused of crime before their arrest, nor during the three weeks between the murder and their arrest, did they behave like men who were concealing the crime of murder. They did not go into hiding; they did not abscond with the spoils; they did not live under assumed names. On the contrary they maintained their old lodgings; they pursued openly their callings, within a few miles of the town where they were supposed to have committed murders in broad daylight.[1]

Yet evidence was gathered to prove their "consciousness of guilt", as follows:

Both Sacco and Vanzetti when they accompanied Boda to Johnson's Garage, "seemed to"[2] accept Mr. Johnson's advice

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1. Frankfurter, op.cit., p.45.
2. Ibid., p.47.

not to take the car without 1920 number plates on it, and left "after some conversation."[1] On this testimony, Judge Thayer formulated the following consideration to the jury:

> Did the defendants, in company with Orciani and Boda, leave the Johnson house because they were conscious of or became suspicious of what Mrs. Johnson did in the Bartlett house (called the police)? If they left because they had no 1920 number plates on the automobile, then you may say there was no consciousness of guilt in consequence of their sudden departure, but if they left because they were consciously guilty of what was being done by Mrs. Johnson in the Bartlett house, then you may say that is evidence tending to prove consciousness of guilt on their part.[2]

The fact that Sacco and Vanzetti possessed firearms was used against them. Sacco carried a pistol as a night watchman, and he acquired the habit of carrying it with him. Vanzetti carried a pistol for self defense "because it was a very bad time."[3] Both had credible reasons entirely unrelated to professional banditry.

The other evidence presented to prove their "consciousness of guilt" was that Sacco and Vanzetti lied to the questions put to them by the police at the time of their arrest. This was admitted by them. By misleading answers, they tried to cover their movements on the day of their arrest, the friends they had seen, the places they had been to. Vanzetti denied, for example, that he knew Boda. To them, their being taken into custody meant clearly another deportation case. For

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1. Frankfurter, op.cit., p.37.
2. Ibid., p.37.
3. Ibid., p.39.

two days, nothing was said to them of a more serious charge, only questions on political matters - were they Socialists, Communists, Radicals, Blackhands?

> Innocent men, it is said, do not lie when picked up by the police. But Sacco and Vanzetti knew they were not innocent of the charge on which they supposed themselves arrested, and about which the police interrogated them. For when apprehended they were not confronted with the charge of murder; they were not accused of banditry; they were not given the remotest intimation that the murders of Parmenter and Berardelli were laid at their door. They were told they were arrested as "suspicious characters," and the meaning which that carried to their minds was rendered concrete by the questions that were put to them.[1]

Later in court, both men, in order to free themselves of a crime they did not commit, had to disclose their guilt of radicalism and their belief that plainly, their arrest seemed to them a matter of politics. Although their actions admittedly did denote "consciousness of guilt" and in spite of their credible explanations for their actions, the conviction was based on that evidence.

Motions for New Trial

Under Massachusetts law, appeals for a new trial must first pass before the trial judge, in this case, Judge Webster Thayer. The defense had made further investigation and uncovered a mass of new evidence which would make it impossible for the State to conduct a second trial along the same lines as

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Frankfurter, op.cit., p.40.

the first.

This new evidence, made the subject of motions for a new trial, began by discrediting the testimony of three of the State's leading witnesses. Two of these, Lola Andrews and Louis Pelzer swore to affidavits that they lied when they testified they saw Sacco at the murder scene. These confessions, were made in the presence of witnesses, and although the prosecution later persuaded them to recant their confessions, any future testimony by them could not have been believed. The third witness, Carlos Goodridge, had testified under an assumed name and had already served two terms for larceny.

Ripley Motion

The foreman of the jury, Ripley, stated to the defense, after the conviction, that he had carried in his pocket cartridges of similar make and calibre to those put in evidence, and that the jury and he had discussions about them. Inferences were drawn from the cartridges he held and those exhibited at the trial. This introduction of "evidence" not given openly in court, particularly in a capital case, violated the law which insists that all evidence be put to the test of cross-examination.

Daly Motion, a supplement to first motion.

An old friend of Ripley's, Daly, told the defense of his meeting with Ripley a few days before the opening of the trial. Ripley told him that he was going to serve on the jury of the case of the two "ginneys," and when Daly said he did not

believe Sacco and Vanzetti to be guilty, Ripley answered "Damn them, they ought to hang anyway."[1]

Gould Motion

Gould, who sold razor paste to employees of factories, told the defense of his arrival in South Braintree on April 15, about 3:00 P.M. and how he started to follow Parmenter and Berardelli to where the shoe employees were paid off when the shooting suddenly began. He saw a man climb from the back seat to the front seat of a car. That man fired a shot at him, and the bullet passed through his overcoat. Gould left his name and address with the police, but he was never called to testify. After the trial, when Gould saw Sacco and Vanzetti, he was certain that neither was the man he saw in the car. Judge Thayer, in his decision denying the Gould motion, discredits the Gould affidavit by pointing out that Gould, who did not see Sacco or Vanzetti from April 15, 1920 until November 10, 1921, could not carry a correct picture of him in his mind for the period of eighteen months. The strength of Gould's affidavit, as Frankfurter contends, lies in the fact that since the man Gould saw was not Sacco or Vanzetti, then far from carrying a mental picture of one of them for eighteen months, he knew, when he first saw them in jail, that neither was the man he saw in the car and that he had never seen them before.

Proctor Motion

It should be noted, before discussing the motion of

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[1] Frankfurter, op.cit., p.74.

Proctor, that none of the firearm experts who testified at the trial had based their opinions after an examination under a comparison microscope, which is the only method of determining accurately whether two bullets were fired from the same pistol. These experts used low-powered single microscopes and magnifying glasses; they did not display a knowledge of precision of measurements. As it happened, "neither the experts nor the jury were qualified to form an opinion on the basis of the testimony given at the trial."[1]

District Attorney Katzmann cleverly displaced the emphasis of the firearms testimony and appealed to the jurors' vision as proof that the fatal bullet came from Sacco's pistol. He presented the marks on the bullets produced by scoring as a peculiarity, and instructed the jury to examine the pits which caused the scoring in the barrel of Sacco's pistol.

In defense, the analysis of the defendants' counsel failed to call attention to the weaknesses in the testimony submitted by the State's experts - the facts, for example, that their measurements differed, that one admitted not knowing the component parts of either firearms or ammunition. Defense counsel was so brief, while the prosecuting attorney used such clever emphasis that the jurors were induced in an attitude that favored the Commonwealth on the basis of superficial consistencies perceivable only to the naked eye on examination of

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1. Gunther, Jack Disbrow, and Gunther, Charles O., The Identification of Firearms, John Wiley and Sons, Inc., New York, 1935, 202.

exhibits.

Judge Thayer did not, in the differences arising from the expert testimony of both sides, try to mitigate the confusion in any way. Instead of assisting in the presentation of the evidence concisely, he concluded to the jury that the mortal bullet was fired by Sacco's pistol, and that the defense testimony was offered merely to rebut this.

> The incompetence of the expert testimony was not brought to the attention of the jurors. In dealing with this evidence they were forced to rely upon the most convincing, irrespective of its merits. The experts for the commonwealth, being more frank, responsive, and conservative, made a better impression upon the minds of the jury than did those for the defense, one of whom created a suspicion of insincerity.
>
> The inevitable conclusion is that the defendants did not receive a fair trial on this all important and vital issue. The jurors were properly equipped to make an intelligent determination. They had to rely upon incompetent expert testimony which was not, within the narrow limits of information set by the experts, either intelligently or fairly explained during the presentation and summary; and the observable data which the jurors were advised to consider had but little, if any, significance to them.[1]

Proctor, at the time head of the Massachusetts State Police and an expert in examining firearms and bullets, disclosed, after the conviction of Sacco and Vanzetti, that he did not believe that it was Sacco's pistol that fired the bullet found in Berardelli's body. He swore to an affidavit that, by prearrangement with District Attorney Katzmann, they could compromise with the truth by using a certain wording to

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1.Gunther and Gunther, op.cit., p.214.

falsify its meaning, as follows:

> Q. Have you an opinion as to whether bullet No. 3 (Exhibit 18) was fired from the Colt automatic, which is in evidence (Sacco's pistol)?
>
> A. I have.
>
> Q. And what is your opinion?
>
> A. My opinion is that it is consistent with being fired from that pistol.[1]

The hope that it would be taken in the false sense was gratified when Judge Thayer presented the testimony to the jury -

> . . . it was his (Sacco's) pistol that fired the bullet that caused the death of Berardelli. To this effect the Commonwealth introduced the testimony of two witnesses, Messrs. Proctor and Van Amburgh.[2]

In the affadavit, Proctor concludes -

> . . . that bullet number 3, in my judgment, passed through some Colt automatic pistol, but I do not intend by that answer to imply that I had found any evidence that the so-called mortal bullet had passed through this particular Colt automatic pistol and the District Attorney well knew that I did not so intend and framed his question accordingly. Had I been asked the direct question: whether I had found any affirmative evidence whatever that this so-called mortal bullet had passed through this particular Sacco's pistol, I should have answered then, as I do now without hesitation, in the negative.[3]

Proctor's testimony had been interpreted by the defense, by the trial judge, as an unqualified opinion that the bullet had been fired from Sacco's pistol. This was the only opinion

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1. Frankfurter, op.cit., p.77.
2. Ibid., p.77.
3. Gunther and Gunther, op.cit., p.218.

presented to the jury. Some of the jurors stated, after the trial, that in arriving at their verdict they relied only upon the expert testimony submitted on the firearms identification.

> Once the jury was convinced that the Colt found on Sacco did participate in the murder, the other elements of evidence, such as the cap, the eye-witnesses, and the condust after the crime, would have corroborated the fact of the defendants' guilt. Once the guilt of Sacco was established the jury would have had some basis for connecting Vanzetti with the murder through Vanzetti's association with Sacco, the evidence of eye-witnesses, and his conduct indicative of a consciousness of guilt.
>
> The identification of Sacco's gun was the natural determinant of the guilt or innocence of Sacco. Rationally and intelligently handled, this would have been the subject of the most reliable form of evidence. The decision of the issue, properly tried, would have rested on physical data which could have been intelligently observed by the jury, upon being properly presented and interpreted by competent experts. Here was an issue based on scientific principles, independent of the unreliability of eye-witnesses with their faulty recollections and doubtful credibilities. The identity of Sacco's pistol could have been determined by an examination of observable physical data; the existence or absence of significant marks of the bullets and cartridge cases used in the crime when compared with the markings on the bullets and cartridge cases fired in Sacco's pistol for test purposes.[1]

On Octoberl, 1923 Judge Thayer filed his decision denying all motions for a new trial. "The trial judge was unable to evaluate the conflicting items of testimony; he lacked the necessary capacity in that he did not possess superior knowledge in the field of firearms identification.

1.Gunther and Gunther, op.cit., p.107.

However, the affidavit testimony should have convinced the trial judge that the jury had not been properly equipped to make an intelligent finding of the firearms issue. . . he should have appreciated the doubt shadowing the prosecution's testimony, and, an the basis of this doubt, granted a new trial."[1]

The Madeiros Confession

The defense had maintained, throughout the trial and after, that all evidence pointed away from the defendants. But, if this were so, the deaths of Parmenter and Berardelli remained unexplained. Now the defense had new proof with the Madeiros confession, positive proof that Sacco and Vanzetti did not commit the murders, but that a well-known gang of professional criminals did.

On November 18, 1925, Celestino F. Madeiros, a young Portuguese who was confined in the same prison with Sacco, sent a note to Sacco through a jail messenger:

> I hear by confess to being in the South Braintree shoe company crime and Sacco and Vanzetti was not in said crime.
> CELESTINO F. MADEIROS[2]

Madeiros tried many times previously to tell Sacco, but Sacco feared his intention and ignored what he said.

Both the defense counsel and the District Attorney examined Madeiros, who at the time of the crime in 1920, had

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1.Gunther and Gunther,.op.cit.,p.245.
2.Frankfurter,op.cit.,p.92.

already had a criminal record from his association with a gang of Italians who robbed freight cars in Providence. As an eighteen year old novice, Madeiros explained that his part in the South Braintree hold-up was to hold back any crowd in the back seat of the car with a revolver. The plan was carried into execution on April 15, 1920, and the party included three other Italians and a "kind of a slim Fellow with light hair."[1] Madeiros told how they used two cars, a Hudson to the woods near Randolph and a Buick to South Braintree, in order to prevent identification. When the time came, Madeiros said the actual shooting was done by the oldest Italian, a man about forty, and another who helped him. The rest stayed in the Buick. After the crime was committed and the murderers made off in the car with the money, they drove back to the woods, left the Buick, took the Hudson, and returned to Providence where Madeiros said the plan was to meet the following night in a saloon to divide the spoils. Whether the arrangement was kept, Madeiros refused to say; neither would he say if he go any of the loot, but the discovery that he suddenly possessed $2800 could have accounted for his share of the South Braintree payroll. Madeiros obstinately insisted on shielding the identity of his associates in the crime, but he held nothing back that implicated himself.

In spite of his efforts, the identity of the gang he spoke of was established, and it strongly corroborated

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1. Frankfurter, op. cit., p. 94.

Madeiros' story. This was the Morelli gang, known by the Providence and the New Bedford police as professional criminals. In fact, the gang had, in their freight car robberies, stolen consignments from the very Slater and Morrill Company of South Braintree. This indicates that possibly they had a confederate at South Braintree to spot shipments for them. Madeiros' description of the members of the gang fit the Morelli brothers and the other members. Steve the Pole, a light-haired man, fits the description of the driver as testified by witnesses at the trial. Witnesses later identified Steve as the man they saw; others identified Joe Morelli as the one who did the shooting; others still identified Mancini, one of the members. Joe Morelli, who was identified as the man who did the shooting, owned a 132 Colt pistol at the time; he owned a Buick, New Bedford police reported, but it disappeared immediately after April 15, 1920. The New Bedford police, in fact, had them under suspicion for the crime, but dropped the matter after the arrest of Sacco and Vanzetti.

It is more consistent with the facts of the case that the Morelli gang executed the hold-up and the murders.

> In the light of all the information now available, which is the more probable truth: that Sacco and Vanzetti or the Morelli gang were the perpetrators of the Braintree Murders? The Morelli theory accounts for all members of the Braintree murder gang; the Sacco-Vanzetti theory for only two, for it is conceded that if Madeiros was there, Sacco and Vanzetti were not. The Morelli theory accounts for all the bullets found in the dead men; the Sacco-Vanzetti theory for only one out of six. The Morelli explanation settles the motive, for the Morelli gang were

> criminals desperately in need of money for legal expenses pending their trial for felonies, whereas the Sacco-Vanzetti theory is unsupported by any motive. Moreover Madeiros's possession of $2800 accounts for his share of the booty, whereas not a penny had ever been traced to anybody or accounted for on the Sacco-Vanzetti theory. The Morelli story is not subject to the absurd premise that professional holdup men who stole automobiles at will and who had recently made a haul of nearly $16,000 would devote an evening, as did Sacco and Vanzetti the night of their arrest, to riding around on suburban street cars to borrow a friend's six-year old Overland. The character of the Morelli gang fits the opinion of police investigators and the inherent facts of the situation, which tended to prove that the crime was the work of professionals, wereas the past character and record of Sacco and Vanzetti have always made it incredible that they should spontaneously become perpetrators of a bold murder, executed with the utmost expertness. A good worker regularly employed at his trade but away on a particular day which is clearly accounted for, and a dreamy fish peddlar, openly engaged in political propaganda, neither do nor can suddenly commit an isolated job of highly professional banditry.[1]

In 1929, $40,000 was pledged to further pursue the theory that the Morelli gang executed the crime. One of the Morelli brothers appeared to be willing to tell all he knew of the crime. It was planned to drain the pond where supposedly the holdup men had thrown the empty money boxes; but the stock market crash came, pledges were not collected, and the pond was never drained.

The Madeiros confession, and its implication of the Morelli gang, not known during the trial, was not presented to

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1.Frankfurter, op.cit., p.100.

the jury that tried Sacco and Vanzetti. But it does seem very likely that a jury would have considered these new facts important in coming to a decision of the guilt or innocence of Sacco and Vanzetti.

Judge Webster Thayer's 25,000 word response to this new evidence was a "farrago of misquotations, misrepresentations suppressions, and mutilations."[1] "It was not for him to determine the guilt of the Morellis or the innocence of Sacco and Vanzetti; it was not for him to weigh the new evidence as though he were a jury, determining what is true and what is false. Judge Thayer's duty was the very narrow one of ascertaining whether here was new material fit for a new jury's judgment. May honest minds, capable of dealing with evidence, reach a different conclusion because of the new evidence, from that of the first jury? Do the facts raise debatable issues? Could another jury, conscious of its oath and conscientiously abedient to it, reach a verdict contrary to the one that was reached on a record wholly different from the present, in view of evidence recently discovered and not adducible by the defense at the time of the original trial?"[2] In spite of the new evidence and the Madeiros confession, Judge Thayer's answer to all these questions was in the negative.

The conservative Boston Herald had all along believed that the sentence against Sacco and Vanzetti should be carried out; but even the Herald reversed its position after reading

1. Frankfurter, op.cit., p.104.
2. Ibid., p.103.

Judge Thayer's denial -

> As months have merged into years and the great debate over this case has continued, our doubts have solidified slowly into convictions, and reluctantly we have found ourselves compelled to reverse our original judgment. We hope the Supreme Judicial Court will grant a new trial on the basis of the new evidence not yet examined in open court. . . .We have read the full decision in which Judge Webster Thayer, who presided at the original trial, renders his decision against the application for a new trial, and we submit that it carries the tone of the advocate rather than the arbitrator.[1]

The Herald also comments on Judge Thayer's defense of his denial of the motions for a new trial as also being approved by the Supreme Judicial Court -

> . . . At the outset he refers to "the verdict of a jury approved by the supreme court of this commonwealth" and later he repeats that sentence. We respectfully submit that the supreme court is stated in its own words thus: "We have examined carefully all the exceptions in so far as argued, and finding no error the verdicts are to stand." The supreme court did not vindicate the verdict. The court certified that, whether the verdict was right or wrong, the trial judge performed his duty under the law in a legal manner. The supreme court overruled a bill of exceptions but expresses no judgment whatever as to the validity of the verdict or the guilt of the defendants. Judge Thayer knows this, yet allows himself to refer to the verdict as "approved by the supreme court."[2]

Judge Webster Thayer

Judge Thayer's prejudice, inside and outside the courtroom, has been one of the important evidences that Sacco

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1. Frankfurter, op.cit., p.104.
2. Ibid., p.115.

and Vanzetti, whether guilty or innocent, did not have a fair trial. A judge who gloated over what he did to "those anarchist bastards"[1] was not, in any sense, a fair, unbiased guide to the jury. A trial judge is not expected to review the testimony given but Judge Thayer did. In Massachusetts, a trial judge is not allowed to express his own opinion on a case; Judge Thayer did. In this case, Judge Thayer completely lacked restraint and judicial temperament. His denunciation of Sacco and Vanzetti overflowed to his friends, reporters, acquaintances wherever he went. The following quotations show but a few of the numerous exhibitions of Judge Thayer's prejudice:[2]

Affidavit of George D. Crocker, a Boston lawyer, who lived at the University Club where Judge Thayer was staying during the trial -

> One morning at breakfast I particularly remember because it seemed to me that Judge Thayer at that time exhibited his prejudice and bias in the most notable manner.
>
> On this morning he either came to the table where I was sitting, and asked if he could have breakfast with me, or he called me to his table and asked me to have breakfast with him. He immediately began to talk again about the case, and pulled out of his pocket a portion of the charge which he was to deliver, as I understood it, on that day. He read parts of it to me with comments like this: 'Counsel for the defense said so and so yesterday, and this is my reply'. He then read a part of the charge and said, 'I think that will hold them, don't you?'

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1. Stark, Louis, We Saw It Happen, "A Case That Rocked the World," Simon and Schuster, New York, 1938, p.358.
2. These quotations may be found in the pamphlet "Massachusetts the Murderer," Sacco-Vanzetti Defense Committee, Boston, 1927.

Affidavit of Robert Benchley, dramatic editor of Life at the time. His home was formerly in Worcester where Judge Thayer also lived and where he knew the judge by reputation and by personal contact. Mr. and Mrs. Benchley at this time were visiting Mr. and Mrs. Coes in Worcester -

> Mr. Coes said that Judge Thayer had told him and the other men that a 'bunch of parlor radicals were trying to get these guys off and trying to bring pressure to bear on the bench,' and that he 'would show them and would get these guys hanged,' and that he (Judge Thayer) 'would also like to hang a few dozen of the radicals.' Mr. Coes said that Judge Thayer added that 'no Bolsheviki could intimidate "Web" Thayer,' and that he added in substance that Worcester would be proud of having such a defender as Judge Thayer.

Affidavit of Mrs. Elizabeth H. Bernkopf, at the time reporter for the International News Service on the Sacco-Vanzetti case. Judge Thayer frequently sat with her on the train to Dedham where the trial was held -

> I can not now recall the exact language or the particulars mentioned by Judge Thayer in his discussion of the Sacco-Vanzetti cases. The substance of his talk was, however, generally the same, namely: that he could not be intimidated by anybody or anything; that the defense would find that they could not hoodwink him; that nobody could 'put anything over on him;' that he represented the integrity of the courts of Massachusetts and would see to it that integrity was maintained; that he distrusted and had no sympathy for the kind of people who were supporting the defense financially and otherwise; that he disliked and was suspicious of Attorney Moore, whom he generally referred to as 'that long-haired anarchist.'. . He also stated that if 'they (meaning the defendants and their attorneys) appealed from his decisions to the Supreme Judicial Court they would see how far they would get.'

In an editorial entitled, "Judge Thayer Revealed," The Nation of May 18, 1927, States in part:

> Ever since the conviction of Sacco and Vanzetti in Dedham, Massachusetts, six years ago, there have been disturbing stories in circulation in regard to the biased and improper conduct of Judge Webster Thayer, who presided at the trial. Most of these stories were told privately by reporters of Boston newspapers in attendance at the trial - men who had no use for the defendants or their beliefs but were amazed, and in some cases disgusted, by the judge's animus. A little of this judicial partisanship is to found in the record of the case, but for the most part it consisted in words and act of the trial judge when not on the bench. The Sacco-Vanzetti defense has been well aware of this conduct, but has not dared to stress it because under the curious judicial procedure of Massachusetts Judge Thayer is practically the court of appeals which reviews his own acts, and the counsel for the defense did not wish further to excite his hostility while praying to him for a new trial.
>
> Now that the case is finally out of Judge Thayer's hands, six affidavits have been obtained, any one of which should be sufficient to establish his unfairness. Taken together they blast completely his reputation as a judge and a man; they shrivel him into a contemptible mixture of vanity and vulgarity who was not only guilty of grossly unjudicial conduct but who seized what was probably his first widely reported trial to curry public favor by pandering to the worst mob instincts then prevalent.

"What came out of all these statements is a picture not of a judge but of an agitated little man looking for publicity and utterly impervious to the ethical standards one has a right to expect of a man presiding in a capital case. If these accusations are not disproved, it is no longer possible for any one to maintain that Sacco and Vanzetti had the benefit of a fair trial; the theory that justice has taken its course

according to Massachusetts standards becomes an exploded fiction."[1]

The Lowell Committee

Pressure on Governor Alvan T. Fuller was so strong that on June 1, 1927, he announced the appointment of a committee of three, Judge Robert Grant, President Abbott Lawrence Lowell of Harvard University, and President Samuel W. Stratton of the Massachusetts Institute of Technology "as an advisory committee in connection with the Governor's investigation of the Sacco-Vanzetti case."[2] This committee denied requests for public hearings. In these private hearings, the committee interviewed Judge Thayer, eleven of the jurors and District Attorney Katzmann. What took place in these interviews was withheld from the defense counsel and there was no opportunity to cross-examine. On August 3, 1927, after the report of the Lowell Committee had been submitted, Governor Fuller announced his decision denying clemency, and on August 7, the condemning report of the Lowell Committee was made public.

"Were the distinguished members of the Lowell Committee so unaware of their own bias that they unconsciously permitted it to dictate what they shoud believe and what they should not believe? What would explain the otherwise inexplicabe

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1."Massachusetts the Murderer," p.20.
2.Frankfurter,Marion Denman, and Jackson,Gardner,ed.by, The Letters of Sacco and Vanzetti,The Vanguard Press,New York, 1930,p.358.

omissions and commissions of this committee? Was it class feeling, instinctive distrust of a certain class of "foreigners," lack of sympathy with working-class types represented by Sacco and Vanzetti, their natural antipathy as "patriots" to draft dodgers?"[1]

In 1936, during the Harvard Tercentenary Celebration, a group of Harvard alumni published a pamphlet - "Walled in This Tomb" - comprising "questions left unanswered by the Lowell Committee in the Sacco-Vanzetti Case and their pertinence in understanding the conflicts sweeping the world at this hour." The following facts have been selected from this pamphlet to show the inadequacy of the report in which many citizens had placed their faith and believed as the final word:

1. The Lowell Committee was doubtful of two of Sacco's crucial alibi witnesses, Bosco and Guadagni, who claimed that they were with Sacco in Boston on April 15, 1920, and that they particularly remembered the date because they had been talking about a banquet given that very day for James T. Williams, then editor of the Boston Evening Transcript. Mr. Lowell insisted there was no such banquet on April 15, but there was one for Editor Williams on May 13. In the files of LaNotizia, an Italian daily newspaper in Boston, Bosco, who was one of the editors, found an account of the banquet in the

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1. Stark, op.cit., p.356.

April 16, 1920 edition. In response to this, Mr. Lowell apologized to Bosco and Guadagni. But in the official stenographic record of all the proceedings of the Lowell Committee, there was nothing said of this (according to the stenographer, Mr. Lowell had instructed him not to take colloquies). And yet Mr. Lowell, having admitted his mistake, having told Bosco and Guadagni he believed them to be honest, still found Sacco guilty.

2. The Lowell Committee believed and accepted the identification of a witness, Mrs. Tattoni, formerly Lottie Packard, who was not called by the Commonwealth in the Dedham trial because she was considered so unreliable. In spite of the testimony of Police Chief Gallivan of Braintree that "she is crazy. She imagines things, she has pipe dreams," the committee reported, "The woman is eccentric, not unimpeachable in conduct, but the Committee believe that in this case her testimony is well worth consideration."

3. The Lowel Committee absolved the prosecution of suppressing the testimony of Roy Gould, who was so close to the hold-up car and the men that he got a bullet through his coat, by reporting that there was no evidence that Gould had ever been to the jail to see Sacco and Vanzetti. Yet Gould did see them, on November 10, 1921, when he went to the Dedham jail with defense counsel, talked and studied Sacco carefully, and said emphatically that Sacco was not the man he saw in the car. The Committee held that Gould's evidence was "merely

cumulative," that "there seems no reason to think that the statement of Gould would have had any effect in changing the mind of the jury." Yet the committee admits that Gould "was certainly close to the car" and that "he certainly had an unusually good opportunity to observe the men in the car."

4. The Lowell Committee, in connection with a cap found near the scene of the crime, received new testimony, not presented at the trial, by the Braintree police chief, who said that he himself, in his effort to find some mark of identification, made the holes in the lining of the cap. (The prosecution had identified this cap with Sacco and claimed that these holes were caused by a nail in the shop where Sacco worked.) In spite of the explanation given to the committee for the holes in the cap (the only possible connection the cap could be identified with Sacco), the Lowell Committee accepted the cap as evidence that Sacco took part in the murders.

5. The Lowell Committee did not believe that Judge Thayer used some of the expressions attributed to him, but that there was much exaggeration in the affidavits presented to them. The committee reported, "From all that has come to us we are forced to conclude that the Judge was indiscreet in his conversation with outsiders during the trial. He ought not to have talked about the case and doing so was a grave breach of official decorum. But we do not believe he used some of the expressions attributed to him, and we think there is exaggeration in what the persons to whom he spoke remember.

Furthermore, we believe that such indiscretions in converstion did not affect his conduct at the trial or the opinions of the jury, who, indeed, so stated to the Committee."

6. William H. Daly swore that the fury foreman, William Ripley, had said of the defendants, "Damn them, they ought to hang them anyway." But the committee believed that "Daly must have misunderstood him or that his recollection is a fault," and dismissed the accusation.

7. One reason which the Committee cited for believing that Vanzetti was guilty was the fact that when he was arrested a revolver was found in his possession which was of the same kind that Berardelli had been carrying. The prosecution sought unsuccessfully to establish that this was actually Berardelli's weapon, and there was no proof that Berardelli was actually carrying a gun on April 15. There was evidence that Berardelli had left his revolver with the Iver Johnson concern for repairs. Wadsworth, who received his gun and who was a witness for the Commonwealth, testified before the Lowell Committee that there were "thousands and thousands of them in existence," and that "there are thousands of times more chanceethat it was not Berardelli's revolver than that it was." No mention of Wadworth's testimony was made in the Lowell Committee report.

8. When in one place the committee accepts photographic evidence, it scoffs at such evidence elsewhere. Discussing Sacco's pistol, the committee reports, "In the controversy between the experts, one side striving to show that the bullet

must have been, and the other that it could not have been, fired through that pistol, we are inclined to believe from an inspection of the photographs that the former are right." But when they contended that the photographs of Joe Morelli showed a distinct resemblance to Sacco and to whoever shot Berardelli, and that Benkoski resembled, from all the evidence, the driver of the bandit car, the Lowell Committee dismissed that argument by reporting, "but identification by photograph is very uncertain."

9. Of the many omissions in the Lowell report, one of the most serious was the receipt showing the shipment of eels to Vanzetti by the American Express Company, two days before the date of the attempted Bridgewater robbery, for which Vanzetti was convicted, because he could not furnish a time-card alibi as Sacco did. Vanzetti was a self-employed fish peddlar, and on the day of the Bridgewater hold-up, December 24, 1919, he was selling eels, which were a special Christmas delicacy among Italians. Witnesses testified to having bought eels from Vanzetti, but the testimony had been waved aside with remarks like "But they were all Italians."[1]

Documentary proof was called for by Governor Fuller before he could believe Vanzetti's alibi. Aldino Felicani, of the Sacco-Vanzetti Defense Committee, and Herbert H. Ehrmann, junior defense counsel, combed the Atlantic Avenue fish concerns for records of a shipment of eels to Vanzetti seven years before.

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1. Stark, op.cit., p.344.

After rummaging through old paper in cellers and dusty corners, they found an old American Express Company receipt book, which showed the shipment of a barrel of live eels to Vanzetti at Plymouth two days before the date of the Bridgewater hold-up.

The receipt book was rushed to the office of Governor Fuller, and news of its discovery was given to the Lowell Committee. A few days later, Governor Fuller's decision and the Lowell Committee report - both denying clemency - were made public. There was no mention, in either, of the eel receipt.

Significance

Sacco and Vanzetti were arrested at the height of the Big Red Scare of 1919-1920, when a planned campaign by the Department of Justice under Attorney General A. Mitchell Palmer effected the arrest and deportation of "Reds" on a large scale. (The brutality and lawlessness of these raids were condemned in the United States court decisions on the misconduct of the Department of Justice.)

Boston, at this time, was "one of the worst centres of Lawlessness and hysteria."[1] "The safeguards of the Constitution were ignored, and any true American must blush at what was done and the indifference with which he and all but a handful of his countrymen tolerated it."[2]

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1. Frankfurter, op.cit., p.43.
2. Ibid., p.45.

Sacco and Vanzetti were anarchists; their associates were leading radicals; they were draft-dodgers. Because of this, many believe that the conviction of Sacco and Vanzetti rested only on their highly publicized radicalism and foreign birth; that Sacco and Vanzetti were considered guilty before they were even tried; that had they been American, instead of Italians and agitators, they would have been promptly acquitted. In The Nation, before the execution of Sacco and Vanzetti, the following selections from an editorial[1] show the angry accusations pointed toward the judicial system of Massachusetts:

> . . . Massachusetts today stands accused by millions of seeking vengeance, a bitter, vindictive vengeance; of using the force which it possesses to defy everywhere a public opinion never before equalled.
>
> The whole world knows that, whatever the guilt of Sacco and Vanzetti, the judicial system of Massachusetts has been irrevocably found guilty. It is guilty of a procedure that is a disgrace to a civilized state - that has made it possible for these men to live in jeopardy of the electric chair when only a single judge, and he accused by the Lowell committee of grave indiscretions, has passed upon the evidence of the case.
>
> Blindest of all are those citizens of that once-honored Bay State who say that these men must die to uphold the prestige and power of the courts. Those who are pressing for the death of these criminals must not delude themselves. The courts will not be exalted but degraded if these men are executed while a single reasonable doubt exists, as long as multitudes remain unconvinced

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1The Nation, "A Decent Respect to the Opinions of Mankind," New York, August 24, 1927.

> that justice has been done. It will be everywhere believed that these men have been sacrificed to bolster up an indefensible legal procedure; that the State is not big enough and generous enough to admit that it had done wrong; that it is covering up its tracks by sacrificing a couple of penniless radical workmen. It will be held that its defiance of the world is the defiance of a conscious wrong-doing. Least of all will execution end the case. Everywhere in Boston clubs they are crying: "Let us have it over with!" But the last thing that will end the case will be an act which seems to millions judicial murder. Done with it? Nothing in the world will so keep it alive as the execution of these two men. If Sacco and Vanzetti are executed, not only will execrations be heaped upon Massachusetts, but as long as any member of the present generation lives there will be voices to cry out against what people everywhere consider not merely an attack upon two men but upon a class.

"It lives to this day. Speakers stride to platform and microphone, writers praise, the children of First Families bow to the homage paid them as defenders of democracy. There is applause, solemn, dignified. Nobody boos. Nobody laughs. He who would cry out does so at risk of being branded a subversive foreigner who had better go back where he came from."[1] And the words of Vanzetti are remembered -

> If it had not been for these things
> I might have lived out my life
> talking at street corners to scorning men.
> I might have died, unmarked, unknown, a failure.
> Now we are not a failure.
> This is our career and our triumph. Never
> in our full life could we hope to do such work
> for tolerance, for justice, for man's understanding of man, as now we do by accident.[1]

1. Hamlin, Fred, Land of Liberty, Thomas Y. Crowell Company, New York, 1947, p. 281.

Our words, our lives, our pains - nothing!
the taking of our lives - lives of a good shoe-
maker and a poor fish peddlar -
All! The last moment belongs to us -
that agony is our triumph [1]

1. Hamlin, op. cit., p. 281

II. DISCUSSION OF SOME WRITINGS INFLUENCED BY THE CASE OF SACCO AND VANZETTI

During Sacco and Vanzetti's seven year imprisonment, many American writers enlisted themselves and devoted their energies to rousing a public demand for a fair trial. That two obscure and simple Italians, whose anarchistic philosophy included the belief that human nature was essentially good if freed from restraints, should be put to death, ostensibly on a murder charge, merely because they expressed this faith, was not in keeping with a sound political structure. Pamphlets showing the conspicuous injustices and inconsistencies of the trial were published by the Sacco-Vanzetti Defense Committee; angry crowds gathered the streets in a parade of pickets; open letters condemning the judicial system of Massachusetts were published in newspapers and periodicals -

> TO THE EDITOR OF THE NATION:
> IF SACCO VANZETTI EXECUTED I URGE BOSTON COMMITTEE SUMMON GRAND JURY OF LIBERAL CITIZENS BRING FORMAL INDICTMENT AGAINST COMMONWEALTH OF MASSACHUSETTS FOR FIRST DEGREE MURDER JUDGES SHOULD BE APPOINTED JURY IMPANELLED IN REGULAR FORM COMPLETE TRIAL HELD SUMMONING ALL WITNESSES OF BOTH DEFENSE AND PROSECUTION INCLULING JUDGE THAYER AND GOVERNOR FULLER THOSE WHO FAIL TO ATTEND SHOULD BE REPRESENTED BY PROXY EVEN MORE IMPORTANT THAN SAVING LIVES OF TWO RADICALS IS NECESSITY OF EDUCATING AMERICAN PEOPLE TO NATURE OF THE FRAMEUP NOW AN ESTABLISHED FEATURE OF AMERICAN POLICE SYSTEM I BELIEVE THE PROPOSED TRIAL WOULD BE WIDELY REPORTED.
>
> Long Beach, California, August 12
>
> UPTON SINCLAIR[1]

1. The Nation, New York, August 24, 1927, p175.

To the last minute, efforts were made to free the men, until Sacco and Vanzetti were finally executed.

These writers did not end their campaign with the execution of Sacco and Vanzetti. They dedicated themselves for a time to cry out in their writings against the legalized murder. Some became embittered against a human race that was capable of killing two men only because they were filled with idealistic faith; others cried out against the salient injustices of the seven year proceedings and the personalities who vindictively gueded them to their successful end; others still rebelled against what the case represented, not an attack upon two men, but upon a class of people.

These writings took the form of poetry, plays, novels, histories, biographies. To date, and there are probably many others to add, the following list comprises those writings which, in some way, either as the major theme or in connection with it, includes the Sacco-Vanzetti case -

Drama:

Maxwell Anderson, Winterset
Maxwell Anderson and Harold Hickerson, Gods of the Lightning
Samuel Nathaniel Behrman, Rain from Heaven
James Thurber and Elliot Nugent, The Male Animal

Poetry:

Edna St. Vincent Millay, from The Buck in the Snow
editors: Ralph Cheney and Lucia Trent, America Arraigned (collection)

Novels:

Nathan Asch, Pay Day
Bernard DeVoto, We Accept With Pleasure
John Dos Passos, U.S.A.
In All Countries
Herbert B. Ehrmann, The Untried Case
Ruth McKenney, Jake Home
Michael Angelo Musmanno, Twelve Years After
Upton Sinclair, Boston

Essays and Histories:

Fred L. Allen, Only Yesterday
Morris Cohen, The Faith of a Liberal
Felix Frankfurter, The Case of Sacco and Vanzetti
Jack Disbrow Gunther and Charles O. Gunther, Identification of Firearms
Fred Hamlin, Land of Liberty
Jeanette Marks, Thirteen Days
Louis Stark, We Saw It Happen, "A Cast That Rocked the World"
Charles Erskine Scott Wood, Heavenly Discourses

Others:

Cleveland Amory, The Proper Bostonians
Ferris Greenslet, The Lowells and Their Seven Worlds
Eugene Lyons, The Life and Death of Sacco and Vanzetti
editors: Marion Denman Frankfurter and Gardner Jackson, The Letters of Sacco and Vanzetti.

POETRY: EDNA ST. VINCENT MILLAY

Edna St. Vincent Millay found in Sacco and Vanzetti a subject for hero-worship, for here were two men, who, in spite of the obvious adversities of human nature, remained understanding and forgiving. Vanzetti had said to a friend -

> Ah, Musmanno, the trouble with the world is that there is no responsibility. You see it is this way. In the court the District Attorney says it is not his fault that we are there. He is paid to prosecute men and he can't help himself. The Judge says he has nothing to do with the case except to charge the jury on the law. He says the jury brings in the verdict. The jury says it looks to the Judge for guidance so they are not responsible. Then you ask the Governor and he says it is up to the Advisory Committee. But the committee says it is the witnesses that make the case. The witnesses say they couldn't help being where they are. They didn't ask to be called. And then there are the guards before our cells. They say they are sorry for us but they can't do anything about it. Then, when they come to strap us in the chair they will say they had nothing to do with it as that is how they earn their living. Well, Musmanno (with a smile), I guess only Nick and I are responsible.[1]

Millay brooded against a human race that could kill two such men whose faith had touched her so deeply. Her mood "curdled into bitterness"[2] against the men who sent Sacco and Vanzetti to their death. She concluded that Sacco and Vanzetti's faith in anarchy had been "absurd and preposterous",[3] but she could not reconcile with the fact of their execution. "Man," she said, was to her mind quite obviously the worm that the Moody and Sankey hymnbooks had described him as being."[4] She cried out

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1. Stark, op.cit., p.359.
2. Atkins, Elizabeth, Edna St. Vincent Millay and her Times, The University of Chicago Press, Chicago, 1936, p.177.
3. Ibid., p.177.
4. Ibid., p.177.

that civilization was degenerating with such a political structure in America, that it was like a depleted farmland -

> What from the splendid dead
> We have inherited -
> Furrows sweet to the grain, and the weed subdued -
> See now the slug and the mildew plunder.[1]

This outburst in "Justice Denied in Massachusetts" from the volume A Buck in the Snow and other poems follows in its entirety:

> Let us abandon then our gardens and go home
> And sit in the sitting-room.
> Shall the larkspur blossom or the corn grow under
> this cloud?
> Sour to the fruitful seed
> Is the cold earth under this cloud,
> Fostering quack and weed, we have marched upon
> but cannot conquer;
> We have bent the blades of our hoes against the
> stalks of them.
>
> Let us go home, and sit in the sitting-room.
> Not in our day
> Shall the cloud go over and the sun rise as before,
> Beneficent upon us
> Out of the glittering bay,
> And the warm winds be blown inward from the sea
> Moving the blades of corn
> With a peaceful sound.
> Forlorn, forlorn,
> Stands the blue hay-rack by the empty mow.
> And the petals drop to the ground,
> Leaving the tree unfruited.
> The sun that warmed our stooping backs and
> withered the weed uprooted -
> We shall not feel it again.
> We shall die in darkness, and be buried in the rain.
>
> What from the splendid dead
> We have inherited -
> Furrows sweet to the grain, and weed subdued -
> See now the slug and the mildew plunder.
> Evil does overwhelm

---

1. Millay, Edna St. Vincent, The Buck in the Snow and other poems, Harper and Brothers, New York, 1928, p.33.

poets - including Robinson Jeffers, Archibald MacLeish, Stephen Spender, W.H.Auden - soon began writing furiously about political systems, partisan hero-worship or denunciation of heroes.

But this mood of denunciating the introverted verse which was repudiated as anemic by these writers, even though it has produced much verse for the purpose of propaganda, it has not produced much real poetry. "The fact remains that poetry is not achieved every time an eager and talented writer takes up his pen to convert the world. Shelley himself, in such brashly determined moods, occasionally wrote very weak verse. To reach poetry one has to climb up above a controversial mood as truly as one must climb above any other, and it is harder to surmount a controversial mood than some others. So far as poetry is concerned, much of this interesting journalistic verse is no more than a shriek of ill-temper that seems about to break into a whimper."[1] A controversial subject can become poetry only if the poet approaches it simply, without any ill-temper that it may reach the purity and simplicity of his intention. It took time for Millay to do this in her verse. "Justice Denied in Massachusetts" and "To Those Without Pity," which appear in the volume A Buck in the Snow and other poems, published a few months after the execution of Sacco and Vanzetti, are not of this plane of

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1. Atkins, op.cit., p.179.

The larkspur and the corn;
We have seen them go under.

Let us sit here, sit still,
Here in the sitting-room until we die;
At the step of Death on the walk, rise and go;
Leaving to our children's children this beautiful
doorway,
And this elm,
And a blighted earth to till
With a broken hoe.[1]

Because of its title and direct association with Sacco and Vanzetti, "Justice Denied in Massachusetts" has become the one poem known to be written on the case by Millay. Others, obscure because of the titles, are not so prominently connected with the case as means for propaganda, but in content, represent the deep conflict that moved Millay in her bitterness against the human race. "To Those Without Pity," to those readers who believed the Sacco-Vanzetti sentence should be executed, Millay spurned those readers with a command -

Cruel of heart, lay down my song.
Your reading eyes have done me wrong.
Not for you was the pen bitten,
And the mind wrung, and the song written.[2]

"Justice Denied in Massachusetts" marks the beginning of controversial poems to be published in America and England in the twentieth century.[3] From the time Millay set the fashion, in the same year other poets turned to the possibility of poetry as an instrument for propaganda. A new school of

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1. Millay, op.cit., p.32.
2. Ibid.p., 36.
3. Atkins, op.cit., p.178.

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purity of intention. But others in the same volume, "Hangman's Oak," "Wine from These Grapes," "Sonnet to Gath," "Jesus on His Birthday," "The Anguish," however much Millay's political conscience may have nagged her in these poems, her poetical conscience controlled it and held her back from mere journalistic expression, as in the following:

The Anguish

I would to God I were quenched and fed
As in my youth
From the flask of song, and the good bread
Of beauty richer than truth.

The anguish of the world is on my tongue.
My bowl is filled to the brim with it; there is more
than I can eat.
Happy are the toothless old and the toothless
young,
That cannot rend this meat.[1]

Hangman's Oak

Before the cock in the barnyard spoke,
Before it well was day,
Horror like a serpent from about the Hangman's Oak
Uncoiled and slid away.

Pity and Peace were on the limb
That bore such bitter fruit.
Deep he lies, and the desperate blood of him
Befriends the innocent root.

Brother, I said to the air beneath the bough
Whence he had swung,
It will not be long for any of us now;
We do not grow young.

It will not be long for the knotter of ropes, not long
For the sheriff of for me,
Or for any of them that came five hundred strong
To see you swing from a tree.

---

1. Millay, op.cit., p.31.

Side by side together in the belly of Death
  We sit without hope,
You, and I, and the mother that gave you breath,
  And the tree, and the rope.[1]

These poems were expressions of Millay's tribulation of mood over the Sacco-Vanzetti trial, and she, "Keeping step with the times and feeling its emotional tension to the degree that only a poet can feel it, has yet learned to control herself (with a few lapses) and exercise the patience by which current problems may be distilled into a single limpid drop of poetry."[2]

Almost two years after these poems appeared, another poem was published in a periodical. This poem held "a crystalline distillation of the meaning of her long turmoil"[3] "From the first line one feels, in descant against the hopeless cry of pain, the celestial, singing rhythm that distinguishes great poetry and that can never be aped by poetry on a lower level:

Where can the heart be hidden in the ground
  And be at peace, and be at peace forever,
Under the world, untroubled by the sound
  Of mortal tears, that cease from pouring never? "[4]

In this, Millay does not directly pity the persecuted; her tone is more a growing pain for not being able to express her emotions adequately. This feeling moved her further to hope for oblivion after death, that she may not be troubled with an awareness of any more human misery -

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1.Millay, op.cit., p.34.
2.Atkins, op.cit., p.181.
3.Ibid., p.181.
4.Ibid., p.182.

This mood is not unselfish as it was the former poems - "Justice Denied in Massachusetts" and "To Those Withour Pity" - but it is a mood which has produced poetry because it was accepted for what it is, and was perfectly realized.

NOVEL: JOHN DOS PASSOS

The influence of the Sacco-Vanzetti case on the radical education of Dos Passos cannot be underestimated; for the case provided him with the beginnings of his entire critique of society, the society that could murder two Italian anarchists merely for their opinions. For many other writers, the Sacco-Vanzetti case was, for the most part, a shock to their literary acquiescence or indifference. But for Dos Passos there immediately came from the Sacco-Vanzetti case the culmination of his conception of two nations, the two Americas that is the framework for his U.S.A.[1]

Dos Passos's bitterness against American society was deeply felt during the months he worked to free Saccoand Vanzetti. He produced works which show his strong realization of a modern social system with its struggles between the capitalist class, those who have power, and the working class, those who are struggling to get power, the conflict all through his experience between the self and the world, the conflict that he had been portraying with growing irony and yet so passionately in all his works, was coming to a head. And now the social insights he had been gathering from his own personal sense of isolation, from his bitterness against the war, from Spain, were kindled by the martyrdom of Sacco and Vanzetti.

1.Kazin,Alfred,On Native Grounds,Reynal and Hitchcock,New York, 1942,p.351.

More perhaps than any other American writer who sought to obtain their freedom, it can be said, Dos Passos was really educated and toughened, affected as an artist, by the ong and dreary months he spent working for them outside Charlestown Prison."[1]

Among his efforts to free Sacco and Vanzetti was a publication in The Nation, in which Dos Passos expressed his immediate anger in an open letter to President Lowell of Harvard University when the Lowell Committee report was made public -

An Open Letter to President Lowell

TO THE EDITOR OF THE NATION:
SIR: I amaksking the courtesy of your columns for the enclosed open letter to President Lowell of Harvard that no publication in Boston seems willing to publish
Boston, August 9 JOHN DOS PASSOS

. . You have made yourself a party to a judicial murder that will call down on its perpetrators the execration of the civilized world. What it means is that you are allowing a Massachusetts politician to use the name of Harvard to cover his bias and to whitewash all the dirty business of the arrest of these men at the time of the anarchist raids and their subsequent slow torture by the spiteful and soulless mechanism of the law.

Many of us who have watched the case for years felt that your appointment as a member of the committee assured at least a modicum of fair play and of historical perspective in the conduct of the investigation. This hope was pretty well shattered when it was announced that the investigation was to be carried on behand closed doors. If there was nothing to hide, why the secrecy? Since when have

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1. Kazin, op.cit., p.350.

star chamber proceedings been part of the American judicial system?

> The report in its entirety is an apology for the conduct of the trial rather than an impartial investigation. Reading it, the suspicion grows paragraph by paragraph that its aim was not to review but to make respectable the proceedings of Judge Thayer and the District Attorney's office.[1]

Dos Passos's pamphlet "Facing the Chair," written in 1927 for the defense of Sacco and Vanzetti, foreshadowed plainly the bitterness towards America that Dos Passos was about to embrace in his U.S.A., which he began to write immediately after the Sacco-Vanzetti case was closed.

In America Arraigned, a volume of collected poetry on the Sacco-Vanzetti case, one poem by Dos Passos again shows the influence of the martyrdom of Sacco and Vanzetti on him, and how the growing bitterness which persisted against that America consisting of the capitalist class actually affected and toughened him as an artist -

> This isn't a poem
>
> This is two men in grey prison clothes -
> One man sits looking at the sick flesh of his hands -
> hands that haven't worked for seven years.
> Do you know how long a year is?
> Do you know how many hours there are in a day
> when a day is twenty-three hours on a cot in a cell,
> in a cell in a row of cells in a tier of rows of cells
> all empty with the choked emptiness of dreams?

---

1. The Nation, New York, August 24, 1927, p.174.

Do you know the dreams of men in jail?
Sacco sits looking at the sick flesh of his hands -
hands that haven't worked for seven years

remembers hoeing beans at twilight in his garden
remembers the crisp rattle of the edger
remembers the mould of his wife's back
fuzziness of the heads of kids.
Dreams are memories that have grown sore and festered
dreams are an everlasting rack to men in jail.

Vanzetti writes every night from five to nine
fumbling clumsily wittlly with the foreign words
building paper barricades of legal tags,
Habeas corpus, writ of certiorari,
dead spells out of a forgotten language
taken from the mouths of automaton in black.

They are dead now
The black automatons have won.
They are burned up utterly
their flesh has passed into the air of Massachusetts
their dreams have passed into the wind.

"They are dead now," the Governor's Secretary nudges
the Governor,
"They are dead now," the Superior Court judge nudges
the Supreme Court judge,

"They are dead now," the College President nudges
the College President,
A dry chuckling comes up from all the dead;
The white collar dead; the silkhatted dead; the
frockcoated dead
They hop in and out of automobiles
breathe deep in relief
as they walk up and down the Boston streets.

These two men were not afraid
to smell rottenness
in the air of Massachusetts
so they are dead now and burned
into the fierce wind from Massachusetts.
Their breath has given the wind new speed.
Their fire has burned out of the wind
the stale smell of Boston

Ten thousand towns have breathed them in
and stood up beside workbenches
dropped tools

flung plows out of the furrow
and shouted
into the fierce wind from Massachusetts.
In that shout's hoarse throat
is the rumble of millions of men marching
in order
is the roar of one song in a thousand lingoes

The warden strapped these men into the
electric chair
the executioner threw the switch
and set them free into the wind

they are free of dreams now
free of greasy prison denim
their voices blow back in a thousand lingoes
singing one song
to burst the eardrums of Massachusetts.

Make a poem of that if you dare![1]

This was not a temporary attitude that lasted only until the Sacco-Vanzetti case was over. Even later in 1934, seven years after the execution of Sacco and Vanzetti in the latest of his travelogues In All Countries, Dos Passos's notes on America are the least reassuring. This America he studied for years if an America "hardly lovable - an America he hardly loves."[2] In this book too, his early discussion concerns the Sacco-Vanzetti trial, and he views again the country as one of "repression and reaction,"[3]

> "While far away across the world new eras seemed to be flaring up into the sky, at home the great machine they slaved for seemed more adamant, more unshakable than ever."

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1. Cheyney, Ralph and Trent, Lucia, ed. by, America Arraigned, Dean and Company, New York, 1928, p.82.
2. Geismar, Maxwell, Writers in Crisis, Houghton Mifflin Company, Boston, 1942, p.121.
3. Ibid., p.121.

> By contrast, we get the European hope of social change: Sacco who wants the people of the world 'to walk straight over the free hills, not to stagger bowed under the ordained machinery of industry.' While Vanzetti, the Italian anarchist, shares the hope which has grown up in the Latin countries of the Mediterranean Basin that
>
> > "man's predatory instincts, incarnate in the capitalist system, can be canalized into other channels, leaving free communities of artisans and farmers and fishermen and cattlebreeders who would work for their livelihood with pleasure."
>
> Here the antithesis which underlies Dos Passos's thinking has become explicit: his critical intelligence operating remorselessly upon his native American society.[1]

More than any of the works of Dos Passos, his trilogy, U.S.A., comprising "The 42nd Parallel," "Nineteen Nineteen," and "The Big Money," has fulfilled his intention of organizing the chaotic American life as he sees it in an artistic pattern -

> U.S.A. is the slice of a continent. U.S.A. is a group of holding companies, some aggregations of trade unions, a set of laws bound in calf, a radio network, a chain of moving picture theatres, a column of stock-quotations rubbed out and written in by a Western Union boy on a blackboard, a publiclibrary full of old newspapers and dog-eared history books with protests scrawled on the margins in pencil. U.S.A. is the world's greatest rivervalley fringed with mountains and hills, U.S.A. is a set of bigmouthed officials with too many bankaccounts. U.S.A. is a lot of men buried in their uniforms in Arlington Cemetery. U.S.A. is the letters at the end of an address when you are away from home. But mostly U.S.A. is the speech of the people.[2]

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1. Geismar, op.cit., p.121.
2. Dos Passos, John, U.S.A., The Modern Library, New York, 1930, p.vii.

And more than any of his works, U.S.A. particularly expresses most fully the impact of the Sacco-Vanzetti case on Dos Passos as an artist. For U.S.A. has, as its central theme, the very theme of the class struggle which makes the Sacco-Vanzetti so significant. It was the Sacco-Vanzetti case, in fact, that made U.S.A. possible; the case was the "catalyst his work had needed."[1]

Especially in the third book of U.S.A., "The Big Money", which includes the period of the Sacco-Vanzetti case, Dos Passos "transformed his growingly irritable but persistently romantic obsession with the poet's struggle against the world into a use of the class struggle as his base in art."[2] The Sacco-Vanzetti case, then, gave him a formal conception of society, and out of the facts that one society could willingly work towards the Execution of two men for a matter of politics rather than justice, while another society could fight equally hard, but in vain, to save these two men, came the bitter realization that U.S.A. was two nations, two Americas.

As well as creating a character, Mary French, whose work on the defense of Sacco and Vanzetti ended in defeat and disillusionment, Dos Passos speaks for himself on the Sacco-Vanzetti case in the parts called the "Camera Eye." He speaks with hatred of the "strangers" who defeated the real America

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1. Kazin, op. cit., p.551.
2. Ibid., p.551.

and made the "old American speech," the words of our fathers, "slimy and foul" -

> America has been beaten by strangers who have bought the laws and fenced off the meadows and cut down the woods for pulp and turned our pleasant cities into slums and sweated the wealth out of our people and when they want to they hire the executioner to throw the switch.
>
> but do they know that the old words of the immigrants are being renewed in blood and agony tonight do they know that the old American speech of the haters of oppression is new tonight in the mouth of an old woman from Pittsburgh of a husky boilermaker from Frisco who hopped freights clear from the Coast to come here in the mouth of a Back Bay socialworker in the mouth of an Italian printer of a hobo from Arkansas the language of the beaten nation is not forgotten in our ears tonight
>
> the men in the deathhouse made the old words new before they died
>
> "If it had not been for these things, I might have lived out my life talking at streetcorners to scorning men. I might have died unknown, unmarked, a failure. This is our career and our triumph. Never in our full life can we hope to do such work for tolerance, for justice, for man's understanding of man as now we do by an accident"
>
> now their work is over the immigrants haters of oppression lie quiet in black suits in the little undertaking parlor in the North End the city is quiet the men of the conquering nation are not to be seen on the streets they have won why are they scared to be seen on the streets? on the streets you see only the downcast faces of the beaten the streets belong to the beaten nation all the way to the cemetery where the bodies of the immigrants are to be burned we line the curbs in the drizzling rain we crowd the wet sidewalks elbow to elbow silent pale looking with scared eyes at the coffins
>
> we stand defeated America[1]

1.Dos Passos, op.cit., p.462.

These particular sections are not the same as the usual "Camera Eye" prose that is found in the first two books "The 42nd Parallet" and "Nineteen Nineteen." They are filled with "an eloquent hymn of compassion and rage"[1] and they lift the prose above the "studied terseness and coldness"[2] of the whole work -

> they have clubbed us off the streets they are stronger they are rich they hire and fire the politicians the newspapereditors the old judges the small men with reputations the collegepresidents the wardheelers (listen businessmen collegepresidents judges America will not forget her betrayers) they hire the men with guns the uniforms the policecars the patrol-wagons
>
> all right you have won you will kill the brave men our friends tonight
>
> there is nothing left to do we are beaten we the beaten crowd together in these old dingy schoolrooms on Salem Street shuffle up and down the gritty creaking stairs sit hunched with bowed heads on benches and hear the old words of the haters of oppression made new in sweat and agony tonight
>
> America our nation has been beaten by strangers who have turned our language inside out who have taken the clean words our father spoke and made them slimy and foul
>
> their hired men sit on the judge's bench they sit back with their feet on the tables under the dome of the State House they are ignorant of our beliefs they have the dollars the guns the armed forces the powerplants
>
> they have built the electricchair and hired the executioner to throw the switch
>
> all right we are two nations[3]

"All right we are two nations." It is these two nations

1.Kazin, op.cit., p.351.
2.Ibid., p.351.
3.Dos passos, op.cit., p.461

that concern Dos Passos in U.S.A.; but it was the execution of two men that gave him justification for this conception; it was the execution of these men that called the book out.

DRAMA: MAXWELL ANDERSON

Whereas Millay becam embittered against the human race for killing two idealistic men for their faith, and Dos Passos rebelled against the injustice inevitably inflicted upon a class af people, Anderson was particularly involved against the personages who took part in the Sacco-Vanzetti case and deliberately planned their execution. His interest was chiefly one of character and emotions.

Gods of the Lightning, written in collaboration with Harold Hickerson, was published in 1928, the year following the execution of Sacco and Vanzetti and was received when the public was as yet too close to the actual case to forget about it and enjoy the presentation as a play.

In Gods of the Lightning, Anderson deals with the events of the Sacco-Vanzetti case in a journalistic manner. The play begins in Suvorin's (Madeiros)restaurant which was the meeting place for radicals. Anderson makes it obvious from the beginning that Suvorin and Heine (who did the shooting) were the real contributors to the hold-up and robbery of $28,000 belonging to the Northfield Dock Company and the murder of the paymaster. Rosalie, Suvorin's daughter, engaged to Macready (Vanzetti) is terrified when Mac, who was taking a major part in a long strike to reform working conditions and increase wages, rushed in Suvorin's restaurant and handed her a gun to get rid of. Rosalie tried frantically, as she had done

many times before, to dissuade Mac from getting further involved in the strike he was so determined to win -

> ROSALIE. Anything you can do somebody else could do for you! I'll get rid of the gun for you - and you'll disappear for a couple of weeks! Do you think it's reasonable for you to wander in here with a gun in your pocket and half the police in town laying for you?
>
> MAC. You certainly do feel old tonight, donit you kid?
>
> ROSALIE. It's enough to make anybody feel old. I've lived about a thousand years today - I wish this strike had never started, or it was over, or we could get away somewhere -
>
> MAC. That wouldn't help. Everywhere I go there's a strike. I seem to take 'em with me. You'll have to get used to that.[1]

Later, during the strike meeting, Mac told of how Capraro (Sacco) and he were riding in a car and "a cop jumps on the running board and tosses a gun into the car and then they start to arrest the bunch for carrying concealed weapons. I've seen that tried before, so I picked up the gun and beat it. That's all."[2]

Suvorin, meanwhile, had been silent during all the activities of Mac and Cappie in the strike; but this time, in the midst of all their campaigning, he suddenly bursts out -

> How many years have I sat here listening to fools' talk? Five, ten - many years. And what have I learned from you? I have learned that you know nothing - that you learn nothing! Uplifters, you are, reformers, dreamers, thinking to make over the earth. I know you all, and you are all fools like Ike, who is a pan-handler. That is sensible.. the earth is old. You will not make it over. Man is old. You will not make him over. You are

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1. Anderson, Maxwell and Hickerson, Harold, Gods of the Lightning, Longmans, Green and Company, New York, 1928, p.8.
2. Ibid., p.21.

> anarchists, maybe, some of you socialists, some of you wobblies, you are all believers in pap. The world is old, and it is owned by men who are hard. Do you think you can win against them by a strike? Let us change the government, you say. Bah! They own this government, they will buy any government you have. I tell you there is no government - there are only brigands in power who fight for more power! It has always been so. It will always be so. Till you die! Till we all die! Till there is no earth!
> . . . I can tell you of liberty! I can tell you of justice! There is none! There are men with whips and there are whipped men! That is all. And you are whipped. Because you are fools.[1]

This is where the opportunity for propaganda was open, and Anderson's dialogue seems to be at its highest pitch of didacticism in these sections.

Later, in the confusion of the strike meeting, two policemen enter to make two arrests - those of James Macready and Dante Capraro - on the charge of the murder of the paymaster Kendall (Parmenter) of which Mac and Cappie had heard in a conversation in Suvorin's restaurant.

In the second act, after their arrest, the scene changes to the office of District Attorney Salter (Katzmann). Here Anderson strikes at the government officials by recording what he thought probably went on behind the scenes of the trial. In a conversation between District Attorney Salter and Haslet, a business man, Anderson attempts to persuade his audience that the whole case against Sacco and Vanzetti was framed -

> SALTER. It's rather hard to make it look as if they had anything to do with the murder -

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1. Anderson and Hickerson, op.cit., p.34.

HASLET. Why is it?

SALTER. Lord, there's no evidence.

HASLET. It looks like a pipe to me.

SALTER. It's the God-damnedest flimsiest case I ever had on my hands, yes, and the most sickening bunch of welching witnesses I ever had to deal with. We're going to convict and it's going to look like a frame-up. If I had it to do over again I'd see Northfield and his docks and mills in hell before I'd handle it.

HASLET. You're nervous, Will. What's the matter with you? Don't you own any stock?

SALTER. I need some evidence to show up in the newspapers. You told me your operatives had an airtight case, and they said the same thing, and your witnesses are trying to back out all along the line. And who has to hold them to it? I do. It's a rotten job. I'd like to know how Spiker got that original bunch of affidavits. He must have had everybody chloroformed.

HASLET. Those two Bolsheviks have got it coming. I don't give a damn so long as we don't lose.[1]

To further substantiate this frame-up, Anderson presents the interviews that took place, as he thought, between District Attorney Salter and some of the witnesses. One of the interviews with Bartlet (Pelzer) particularly shows the method Anderson accuses the District Attorney for using in his planned wording of the questions and answers, so that the jury may misinterpret the evidence to be positive against the two men -

SALTER: Did you identify Capraro?

BARTLET. Well - I -

SALTER. Did you identify Capraro?

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1. Anderson and Hickerson, op.cit., p.40.

BARTLET. What if I did? I guess I was - I guess I was mistaken.

SALTER. But you start talking in court the way you've been talking down at the mill and you're going to talk yourself into enough trouble to make you look sick the rest of your life. You said last spring that Capraro looked like the man you saw in the car -

BARTLET. Yeah, but I couldn't say it was him -

SALTER. Your don't have to say it was him. I wouldn't want you to. You'll say it was the dead image of him. Can you remember that? The dead image of him.

BARTLET. Maybe that wouldn't be right.

SALTER. It's true, isn't it? It looked like Capraro. All right, say that.

BARTLET. It looked like Capraro, all right.

SALTER. Certainly it did. It was the dead image of him. And mind you, that doesn't mean it was Capraro. That means it looked like him. Can you remember that?

BARTLET. Yeah, I guess that'd be all right.

SALTER. Can you remember it?

BARTLET. The dead image of him, sure.[1]

In the next scene, when the plans of the District Attorney are in execution, Anderson adds to his list of abjections the biased conduct of Judge Vail (Judge Thayer) at the trial. When the defense attorney Gluckstein asks Bartlet for the second time -

GLUCKSTEIN. What do you mean by dead image, Mr. Bartlet?

BARTLET. I mean it looked like him. Short and dark.

SALTER. Objection! I object to that! That question has

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1. Anderson and Hickerson, op.cit., p.47.

been answered!

JUDGE VAIL. You are a little late, Mr. Salter, nevertheless the objection is sustained. Strike out the question and answer.

GLUCKSTEIN. May I point out to your Honor that his second answer does not tally with the first -

JUDGE VAIL. The second question is not admissible in the record. Proceed.[1]

After the district attorney made it quite clear to the jury that Mac and Cappie were both very dangerous anarchists, the witness Suvorin is presented. Here again, after Suvorin rashly confesses to the crime, Anderson brings out how the officials immediately repudiated the Madeiros confession, no matter how consistent it was with the facts of the case, and called it an obvious fraud, concocted to save the defendants because he was already under sentence of death and had nothing to lose. So that, in spite of having the evidence to convict the real murderers, the state ignored its possibilities and convicted Sacco and Vanzetti, in this case, Mac and Cappie, because they were anarchists.

In the last act of Gods of the Lightning, the scene goes back to the restaurant where Rosalie Suvorin and other friends were waiting for news. Since Judge Vail had turned down all appeals, it was now up to the governor to save Mac and Cappie, if they were to be saved. And the governor had not yet reached a decision, even though every indication pointed toward clemency. In this scene, Anderson rebels passionately

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1.Anderson and Hickerson, op.cit., p.60.

against the governor in one of his characters -

> . . . It means he's stringing us along till he gets 'em good and dead and it's to late to say anything. He knows nobody cares but the radicals, and he's playing them for suckers. Why should he worry about the crowd over in the square? There's several million around here going to bed and going to sleep as usual. Why shouldn't they? There's nothing unusual happening. This isn't a miscarriage of justice! It is justice! The government's putting away some bad boys the way governments always put away the boys that won't play the game![1]

As the time for the execution drew near, everybody in the restaurant became tense. No word was received about a change in the plans for execution. The play ends with a wild note of anguish from Rosalie -

> Don't! - Don't! Don't whisper any more! What is it? (She sees the clock. The hands point to one minute of twelve.) There's still time! There's still time! Oh, my dear, my dear, one minute more time in all your world - only one minute more of time and I can do nothing! (The hands click to midnight.) . . . Don't whisper it! Don't whisper it! Didn't you hear me say not to whisper any more? That's what they'll want you to do - whisper it - keep quiet about it - say it never happened - it couldn't happen - two innocent men killed - keep it dark - keep it quiet - No! No! Shout it! They're killing them! . . . Mac - Mac - my dear - they murdered you - while we stood here trying to think of what to do they murdered you! Just a moment ago you had a minute left - and it was the only minute in the whole world - and now - now this day will never end for you - there will be no more days! Shout it! Shout! Cry out! Run and cry! Only - it won't do any good - now.[2]

<u>Gods of the Lightning</u> was based so obviously on the Sacco -Vanzetti case, with so few deviations, that the play was

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1. Anderson and Hickerson, <u>op.cit.</u>, p.98.
2. <u>Ibid.</u>, p.105.

not successful when it was produced. Although Anderson and Hickerson may be commended for their service in arousing public opinion, they wrote and produced the play too soon after the execution of Sacco and Vanzetti. The people still had not time to forget what they knew about the case, and the question of the guilt or innocence of two particular men was still a question in their minds; so that the theme, not generally on judicial injustice but specifically on the Sacco-Vanzetti case, persisted in their consciences and nagged them rather than pleased them. Gods of the Lightning, then, may be regarded as a noble and moving contribution and defense of a cause. But because of its obvious purpose, a failure as an artistic work.

Winterset, on the other hand, immediately differs in tone and content from Gods of the Lightning. Whereas Gods of the Lightning was a product of immediate reaction, Winterset was was the result of eight years of a poet's brooding.

In Winterset, verse, usually used in historical plays, for the first time is used in a play dealing with contemporary life. Some critics, for this reason, ridicule the play for its dialogue in verse by gangsters and slum dwellers. But in his preface to the play, Anderson justifies his purpose -

> Winterset is largely in verse, and treats a contempory tragic theme, which makes it more of an experiment than I could wish, for the great masters themselves never tried to make tragic poetry out of the stuff of their own times. To do so is to attempt to establish a new convention, one that may prove impossible of acceptance, but to which I was driven by the lively historical sense of our day - a

> knowledge of period, costume and manners which almost shuts off the writer on historical themes from contemporary comment. Whether or not I have solved the problem in Winterset is probably of little moment. But it must be solved if we are to have a great theatre in America. Our theatre has not yet produced anything worthy to endure - and endurance, though it may be a fallible test, is the only test of excellence.[1]

In 1935, Anderson was awarded the Dramatic Critics' Circle Prize for Winterset with the following official announcement of the award -

"The Circle's decision is based upon the conviction that in Winterset the author accomplished the notable difficult task of interpreting a valid and challenging contemporary theme dealing with the pursuit of human justice in terms of unusual poetic force, realinzing a drama of rich meaning and combining a high literary distinction with compelling theatrical force."[2]

Winterset centers on the determination of seventeen year old Mio, son of the executed Romagna (Vanzetti) to clear his father's name. On a chance clue that makes him think that someone has evidence which might convict the real murderer, Mio has come East to a city river front in search of Garth, a young violin player whose testimony would probably have saved Mio's father had he not been afraid of Trock Estrella, the real

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1. Anderson, Maxwell, Winterset, Anderson House, Washington, 1935, p.xi
2. Chandler, Frank W. and Cordell, Richard A., ed. by, Twentieth Century Plays, The Ronald Press, New York, 1939, p.257.

murderer, and his gang. Inone scene, Miriamne said to her brother Garth -

MIRIAMNE. But if you know
why don't you tell them, Garth?
If it's true - what they say -
you knew all the time Romagna wasn't guilty,
and could have said so -

GARTH. Everybody knew
Romagna wasn't guilty! But they weren't listening
to evidence in his favor. They didn't want it.
They don't want it now.[1]

On a rainy night, Mio meets Miriamne, and they immediately fall in love. But when he remembers his purpose there, he tries to send her home and tells her -

When I was four years old
we climbed through an iron gate, my mother and I,
to see my father in prison. He stood in the death-cell
and put his hand through the bars and said, My Mio,
I have only this to leave you, that I love you,
and will love you after I die. Love me then, Mio,
when this hard thing comes on you, that you must live
a man despised for your father. That night the guards,
walking in flood-lights brighter than high noon,
led him between them with his trousers slit
and shaven head for the cathodes. This sleet and rain
that I feel cold here on my face and hands
will find him under thirteen years of clay
in prison ground. Lie still and rest, my father,
for I have not forgotten. When I forget
may I lie blind as you. No other love,
time passing, nor the spaced light-years of suns
shall blur your voice, or tempt me from the path
that clears your name -
till I have these rats in my grip
or sleep deep where you sleep.[2]

Later, to the basement apartment of Miriamne, her father Esdras, and Garth, wanders Judge Gaunt (Judge Thayer),

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1. Anderson, op.cit., p.9.
2. Ibid., p.50.

who, broken in spirit, has also heard of the new investigations on the case and tries to justify his decisions as the trial judge. He says to Garth -

> . . . It's true I could have called you,
> but the case was clear - Romagna was known guilty,
> and there was nothing to add. If I've endured
> some hours of torture over their attacks
> upon my probity - and in this torture
> have wandered from my place, wandered perhaps
> in mind and body - and found my way to face you -
> why, yes, it is so - I know it - I beg of you
> say nothing.[1]

Mio too finally visits the basement apartment where he pieces together the truth about the crime for which his father was convicted and executed. After the appearance of Trock and the sudden entrance of Shadow who came in bleeding and dripping to kill Trock for having shot him, the case is clear. Even Judge Gaunt breaks down, but he continues to hold his stand that what was done was still, after all, the right thing -

> . . . . It's better,
> as any judge can tell you, in such cases,
> holding the common good to be worth more
> than small injustice, to let the record stand,
> let one man die. For justice, in the main,
> is governed by opinion. Communities
> will have what they will have, and it's quite as well,
> after all, to be rid of anarchists.[2]

Mio's revenge was in his grasp. But when a policeman came in looking for the lost Judge Gaunt, and he told of Shadow's body in the other room, the body of the man who killed the paymaster thirteen years before, the policeman did not

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1. Anderson, op.cit., p.65
2. Ibid., p.99.

believe him. Even Miriamne lied to save her brother who was one of the gang. Momentarily beaten, Mio leaves the tenement threatening -

A

All my life long
I've wanted only one thing, to say to the world
and prove it: the man you killed was clean and true
and full of love as the twelve-year-old that stood
and taught in the temple. I can say that now
and give my proofs - and now you stick a girl's face
between me and the rites I've sworn the dead
shall have of me! You ask too much! Your brother
can take his chance! He was ready enough to let
an innocent man take certainty for him
to pay for the years he's had. That parts us, then,
but we're parted anyway, by the same dark wind
that blew us together. I shall say what I have to say.[1]

But outside, Miriamne followed Mio, and, in their last few moments together, before Trock and his men kill them as they attempt an escape, Mio realizes that revenge now does not matter to him -

I've lost
My taste for revenge if it falls on you. Oh, God,
deliver me from the body of this death
I've dragged behind me all these years! Miriamne!
Miriamne![2]

He'd have forgiven -
Then there's no more to say - I've groped long
enough
through this everglades of old revenges - here
the road ends. - Miriamne, Miriamne,
the iron I wore so long - it's eaten through
and fallen from me. Let me have your arms.[3]

Winterset, as compared to Gods of the Lightning, represents no change of opinion in the mind of Anderson. The

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1. Anderson, op.cit., p.110.
2. Ibid., p.125.
3. Ibid., p.126.

social protest and indictment of class justice is still there, but only if the reader cares to look for it. Winterset was not, as Gods of the Lightning, written to stir audiences to do something about it as soon as they leave the theater; it was not a direct plea. In its tone, Winterset is less heated, less immediate, and points out the protest in sorrowful indignation and bitterness, without the one-track issue of Gods of the Lightning. For this reason it is more effective in its emotional appeal as a work of art,

> MIO. Whatever streets I walk, you'll walk them, too,
> from now on, and whatever roof or stars
> I have to house me, you shall share my roof
> and stars and morning. I shall not forget
>
> MIRIAMNE. God keep you!
>
> MIO. And keep you. And this to remember!
> if I should die, Miriamne, this half-hour
> is our eternity. I came here seeking
> light in darkness, running from the dawn,
> and stumbled on a morning.[1]

Winterset closes on this note of love. Some, who prefer more social significance, find fault with Anderson's ending. But it is Anderson's lack of preoccupation with the social protest that makes Winterset more of a work of art; and it is Anderson's concern with human emotions that makes it so. For Mio did "stumble on a morning;" his apparent defeat was triumph. And in the final moments of Mio and Miriamne, Anderson has reached a universal meaning, a human truth, if not a social one.

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1. Anderson, op.cit., p.127.

The Frankfurter version of the Sacco-Vanzetti case states completely the facts that aroused the artists in their writings. But the immediate reaction of these writers in their works was to arouse readers, to stimulate them to action. Millay's poems were written for the purpose of propaganda. Dos Passos's U.S.A. is still an intelligent piece of reporting, not without feeling, but that, too, like Anderson's Gods of the Lightning, does not quite reach the purity of intention that is necessary in a work of art with a social theme. Only Winterset, which was written after the author's reflection, and written on the same theme, shows its superior value as a work of art.

Abstract

In spite of the mass of conflicting evidence, Sacco and Vanzetti were convicted for the murders of a paymaster and his guard and for the theft of $15,776.51, belonging to the Slater and Morrill Shoe Company of South Braintree, Massachusetts.

None of the testimony offered by the Commonwealth was convincing evidence against the two men. The evidence on Sacco's cap was not sufficient to convict him, even though the truth about the holes in the lining was not revealed until after the trial. The misinterpretation of the pistol evidence was probably the strongest evidence against them; but even there the expert testimony conflicted. The testimony of the eye-witnesses was the least convincing since the basis of these was from mere casual observations of men, not known to the witnesses before, of foreign race, under confusing circumstances.

Judge Thayer ruled that the evidence that convicted the defendants was circumstantial evidence that is known in law as "consciousness of guilt," that is, that the defendants' conduct after their arrest was the conduct of murderers. The evidence that was gathered to prove this "consciousness of guilt" included: that Sacco and Vanzetti both carried pistols; that they tried to cover their movements on the day of their arrest by giving misleading answers to the police. Admittedly their actions did denote "consciousness of guilt," but only

because, to them, their arrest plainly meant another case of deportation, and it was their natural desire to protect themselves and their friends as much as possible. They had no indication that the charged against was anything more serious, and nothing was said to them about it. The conviction was based largely on this evidence in spite of their credible explanations.

After the conviction of Sacco and Vanzetti, appeals for a new trial were filed. But these appeals, which had to pass before the trial judge, Judge Thayer, were denied. The evidence which appeared in the Ripley motion, the Daly motion,the Gould motion, the Proctor motion, if accepted, would have made it impossible for the State to conduct a second trial along the same lines as the first.

All along the defense maintained that the evidence pointed away from the defendants. Suddenly they obtained new proof with the Madeiros confession that Sacco and Vanzetti did <u>not</u> commit the murders, but that a well-known gang of professional criminals <u>did</u>. But this new evidence, because Judge Thayer denied its importance as basis for a new trial, was not presented to any jury. But it does seem likely that a jury, if not the trial judge, would have considered these facts important in coming to a decision.

The prejudice of Judge Thayer, inside and outside the courtroom, has been one of the important indications that Sacco and Vanzetti did not have a fair trial. Whether they were guilty

or innocent, Judge Thayer completely lacked restraint and judicial temperament in this case. Wherever he went, he denounced Sacco and Vanzetti, "those anarchist bastards," to friends, reporters, anybody who would listen to him. The affidavits of George U. Crocker, Robert Benchley, Elizabeth R. Bernkopf give examples of his prejudice.

The report of the Lowell Committee, consisting of Judge Robert Grant, President Abbott Lawrence Lowell of Harvard University, and President Samuel W. Stratton of the Massachusetts Institute of Technology, did not advise clemency. This committee was supposed to investigate the case thoroughly, but the report shows many inconsistencies, many questions left unanswered. The nine examples of the inadequacy of the report do not, in any way, complete a list of grievances. And this was the report in which many citizens had placed their faith and believed as the final word.

Among the writers who cried out in their writings against the legalized murder of Sacco and Vanzetti were Edna St. Vincent Millay, John Dos Passos, and Maxwell Anderson.

Because of the Sacco-Vanzetti case, Millay became embittered against the human race that could kill two men merely for their faith. Her poems "Justice Denied in Massachusetts" and "To Those Without Pity" are poems written strictly as a means for propaganda. These appeared in <u>The Buck in the Snow and other poems</u>. But others, in the same volume, "Hangman's

Oak," "Wine from These Grapes," "Sonnet to Gath," "To Jesus on His Birthday," "The Anguish," are not of the plane of propaganda and therefore approach a purity of intention that makes them more of works of art.

To John Dos Passos there came from the Sacco-Vanzetti case the culmination of his conception of two nations, the two Americas that is the framework of his U.S.A. U.S.A. has, as its central theme the very theme of the class struggle which makes the Sacco-Vanzetti case so significant. In the sections called the "Camera Eye," Dos Passos's prose is filled with rage against the powerful class that murdered Sacco and Vanzetti and at the same time it is filled with compassion for the minority class which Sacco and Vanzetti represented.

Whereas Millay became embittered against the human race for killing two idealistic men and Dos Passos rebelled against the injustice against a class of people, Maxwell Anderson's interest grew from an attack against the people who took part in the execution of Sacco and Vanzetti in "Gods of the Lightning to a more artistic interest in character and emotions. Both plays represent the same opinion in the mind of Anderson; both include the social protest. But it is Anderson's lack of preoccupation with the social protest that makes "Interset more of a work of art.

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